

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THE MAGNAVOX COMPANY,	)	
a Corporation, and	)	
SANDERS ASSOCIATES, INC.	)	
a Corporation,	)	Consolidated
Plaintiffs,	)	74 C 1030
	)	74 C 2510
v.	)	75 C 3153
	)	75 C 3933
BALLY MANUFACTURING	)	
CORPORATION,	)	
a Corporation, et al.,	)	
Defendants.	)	

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STIPULATED PROTECTIVE ORDER

Upon the stipulation of the Magnavox Company and Sanders Associates, Inc., hereinafter referred to as plaintiffs and Sears, Roebuck and Co., it is hereby ORDERED that:

1. Any document or portion thereof, or other form of evidence contemplated under Rules 26 through 37 of the Federal Rules of Civil Procedure for which a claim of confidentiality or trade secrecy is made, on behalf of Sears, Roebuck and Co., at the time of production, shall be designated as CONFIDENTIAL UNDER PROTECTIVE ORDER. At the time it is produced for inspection by counsel, it is sufficient designation for this purpose that a container holding tangible objects, a file or an individual document

bear a written label marked CONFIDENTIAL UNDER PROTECTIVE ORDER or the like and any object, file or document so marked shall be handled as hereinafter set forth. Any copies of such documents or other tangible things so designated which are thereafter supplied to plaintiffs shall be subject to the following conditions.

2. Documents and other tangible things designated CONFIDENTIAL UNDER PROTECTIVE ORDER, copies thereof, and the information contained therein, and any analysis or report pertaining thereto, as well as the transcript of any testimony relative thereto, shall be made available to and/or inspected by attorney employees of plaintiffs having a need to know, lawyers and clerical personnel of outside counsel and independent testing laboratories or independent experts not associated directly or indirectly with any party to this litigation. Such material shall be used only for the purposes of the aforementioned litigation Civil Action No. 75 C 3153, United States District Court for the Northern District of Illinois, Eastern Division, and in litigation captioned Atari, Inc. v. The Magnavox Company et al, Civil Action 75 C 3933.

3. The documents or other tangible things, designated CONFIDENTIAL UNDER PROTECTIVE ORDER, copies thereof, or the information contained therein and analyses or reports pertaining thereto, shall not be disclosed to other than those named in paragraph 2 hereof, until and unless:

(A) Counsel for Sears, Roebuck and Co. waives in writing the claim of confidentiality thereof, or

(B) Such information is or was otherwise rightfully acquired by and on behalf of one of the parties to this litigation, or

(C) Such information becomes or has become public knowledge, other than by act or omission of one of the parties to this litigation or their representatives or employees, or

(D) A Court Order releases the confidentiality.

4. If plaintiffs conclude that for the purpose of this action they need to disclose any of said confidential material, or the information contained therein or derived therefrom, to any person not specified in paragraph 2 herein, or to offer it in evidence in this action, they may request the producing counsel to grant

permission to do so for specified documents or information. To be effective, such consent must be granted in writing with respect to specified documents or information by producing counsel and the provisions of this Stipulated Protective Order shall thereby be modified as to such specified documents or information. If counsel cannot agree as to the disposition of such a request, application to the United States District Court for the Northern District of Illinois for ruling on such a request may be made and on such application this Stipulated Protective Order shall be without prejudice to the rights of any party in any respect. Furthermore, it is a specific understanding that if said Court's assistance is sought in expediting discovery and completion of this litigation it is agreed:

(A) That the mere designation of a document by counsel or a party as being "confidential" cannot alter or enhance the nature of that document or its confidentiality or create any presumption of confidentiality;

(B) In the event that the parties disagree on the propriety of classifying a document as confidential, the party seeking classification as non-confidential shall submit a request in

writing to the Court for in-camera consideration of the document and a determination of the desirability of releasing the document for further use in this litigation; and

(C) The Court shall release the document for use in this litigation and for disclosure to the other parties to this litigation if the Court finds that the document is relevant and material to the issues, subject only to such further or alternate protective provisions as the Court may deem just in the circumstances.

5. Notwithstanding the availability of material as set forth in paragraph 2 hereof, any such document or other form of evidence may be marked "SECRET UNDER PROTECTIVE ORDER" and it, together with the transcript of any testimony relative thereto, shall be available only as follows: One copy shall be provided to outside counsel for plaintiffs. Such copy shall be available in the offices of said outside counsel for use by attorney employees of plaintiffs. A copy of such material and/or transcript of testimony relative thereto may also be made available by said outside counsel to independent experts not associated directly or indirectly with plaintiffs or with any other party in the video game business; provided,

however, that such independent experts agree, in writing, and prior to receiving such drawing and/or transcript, not to disclose the information obtained from said drawing and/or transcript to any party other than to said outside counsel or to the Court in this litigation.

Said material designated SECRET UNDER PROTECTIVE ORDER and the transcript of testimony relative thereto shall be used only for the purposes of this litigation Civil Action No. 75 C 3153 and in litigation captioned Atari, Inc. v. The Magnavox Company et al, Civil Action No. 75 C 3933.

Date:

April 26, 1976



Attorney for Plaintiffs  
The Magnavox Company and  
Sanders Associates, Inc.

Date:

April 26, 1976



Attorney for Defendant  
Sears, Roebuck and Co.

IT IS SO ORDERED:

Date: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

DOCUMENTS WHICH WILL NOT BE PRODUCED VOLUNTARILY BY SEARS

1. A report entitled "Electronic TV Games -- An Investigation of the 1976 Market Potential" prepared for Department 606 by Merchandising Research Department 733MR, dated March 1976.
2. Market Research Report entitled "Tele-Games Study Results - Preliminary" dated July 2, 1975 and prepared by Department 733MR for Department 606.
3. Handwritten market research report entitled "Preliminary Results Electronic Games Package Inserts" dated February 13, 1976.
4. A looseleaf binder - Tele-Games electronic games binder and including more data and more strategy.

LSI